

State of California
California Regional Water Quality Control Board
Colorado River Basin Region

MINUTES OF BOARD MEETING

Thursday, January 14, 2016, 9:00 a.m. to 1:28 p.m.

California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive
Palm Desert, CA 92260

CALL TO ORDER

The California Regional Water Quality Control Board, Colorado River Basin Region, was called to order by Chair Ellen Way at 9:00 a.m. on January 14, 2016, at Palm Desert, California.

PLEDGE OF ALLEGIANCE

ROLL CALL (Board Members Only)

Regional Board Members Present:

Buford Crites, Tom Davis, Hidali Garcia, Ed Muzik, Jayne Powell, Ellen Way,
Nancy Wright

The Board Clerk stated that a quorum was present.

Ms. Way introduced and welcomed to the Regional Water Board new Board Members Ms. Powell and Ms. Garcia. She also welcomed State Water Resources Control Board (State Water Board) Vice-chair Frances Spivy-Weber and congratulated Mr. Muzik for his reappointment to the Regional Water Board by Governor Brown.

Regional Water Board Counsel: Tom Vandenberg

State Water Board Liaison: Frances Spivy-Weber

Regional Board Staff Present:

Jose Angel, Abdi Haile, Mary Serra, Mary Castaneda, John Carmona, Kai Dunn, Nadim Shukry-Zeywar, Joan Stormo, Hilda Vasquez, Doug Wylie, Jose Cortez, Francisco Costa, Maria Davydova, Jeff Geraci, Jeong-Hee Lim, Logan Raub, Cathy Sanford.

Others Present:

Mark Hattam, National Beef California
Eric Brandt, One World Beef
Armand Nicholi, One World Beef
John Lormon, One World Beef

Bob Stadum, Hi-Desert Water District
Linsey Dale, Imperial County Farm Bureau
Jeff Lamoure, Imperial County
Lars Seifert, Imperial County
Steve Charlton, Imperial Irrigation District
Rosanna Bayon Moore, City of Brawley
Luis Olmedo, Comite Civico del Valle
Humberto Lugo, Comite Civico del Valle
Scott Stormo
Luis Estrada
Lily Garcia
Katie Pine
Jennifer Henke

MINUTES

1. a. Minutes of October 15, 2015 Board Meeting

MOTION: Buford Crites moved, Tom Davis seconded, Hildali Garcia and Jayne Powell abstained. The motion was carried to adopt Minutes.

b. Minutes of November 17, 2015 Board Meeting

MOTION: Nancy Wright moved, Tom Davis seconded, Hildali Garcia and Jayne Powell abstained. The motion was carried to adopt Minutes.

c. Minutes of November 19, 2015 Board Meeting

Ms. Wright pointed out that proposed minutes for this meeting incorrectly state that the meeting was chaired by Ms. Way. The meeting was chaired by Ms. Wright and, therefore, the minutes should be corrected to indicate so.

Ms. Way pointed out that there was also a double negative statement on Page 3 of the draft Minutes regarding Item 3 (proposed WDRs for Earthrise Nutritionals, which were withdrawn from consideration of adoption because the WDRs were incomplete). She asked that the double negative statement too be corrected.

MOTION: Buford Crites moved for adoption of the minutes as corrected, Ed Muzik seconded, Hildali Garcia and Jayne Powell abstained. The motion was carried to adopt Minutes as corrected.

PUBLIC FORUM

2. No speakers.

UNCONTESTED NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS AND WASTE DISCHARGE REQUIREMENTS

3. R7-2016-0010 Tentative Special Order Revising Waiver of Waste Discharge Requirements for Discharges of Agricultural Wastewater and Drain Operation and Maintenance Activities in Imperial Valley
[Nadim Shukry-Zeywar]

Ms. Powell asked about the type of implementation problems the Board and farmers are having with the Waiver. Mr. Angel stated that there are, for example, problems applying the Waiver to land that is still zoned “agricultural,” but it is no longer used for agriculture.

Ms. Way pointed out that there were also problems with the required fee for coverage under the waiver. Mr. Angel added that the last time the State Water Board revised the fee regulations, it included a provision in the regulations that allows farmland that has not been irrigated during the last five years not to pay the annual fee, and this has created problems for the Coalition’s billing system.

Ms. Linsey Dale thanked the Board for its consideration of approval to the special Order. She reported that the Coalition has been working real hard and moving forward with the Waiver but that the Coalition’s billing system needs to be modified to take care of the new fee provisions.

Ms. Garcia asked whether the data that the Coalition collects are available. Ms. Dale responded that the data are available at the farm Bureau’s website and that they are also submitted to the Regional Water Board.

MOTION: Ed Muzik moved, Tom Davis seconded, and the motion was carried unanimously to adopt Order R7-2016-0010.

4. R7-2016-0007 Tentative Board Order Waste Discharge Requirements for One World Beef, LLC, Owner/Operator, Brawley Slaughterhouse Wastewater Treatment Facility, Brawley, Imperial County
[New WDRs, Jose L. Angel]

The discussion of Items 4 and 5 was handled concurrently by the Board, but under advise from Mr. Vandenberg, the Board took separate votes for each Item. The Board Chair also noted for the record that since the enforcement matter, Item 5, was uncontested, there was no need to separate functions. The Board Chair also asked whether the Board members or anyone else objected to this proposed procedure to discuss both items concurrently. No one objected.

Mr. Angel presented the staff report for the proposed WDRs and Time Schedule Order for One World Beef (OWB). Before he started his presentation, he informed the Board that Earthjustice, on behalf of Comite Civico del Valle, submitted comments late on January 14, 2016, objecting to the adoption of the permit for OWB. Mr. Vandenberg recommended that the Board consider the comments and Mr. Angel’s response to the comments. The Board Chair agreed with the recommendation.

To place his response to comments in context, Mr. Angel provided the Board with an overview of the slaughterhouse’s onsite wastewater treatment facility (WWTF), a

description of the character of the proposed discharge that would be covered by the WDRs, and the provisions in the proposed WDRs that protected water quality and prevented nuisance conditions associated with the onsite discharge of wastewater. He then presented the proposed key milestones and deadlines in the proposed Time Schedule Order to make onsite improvements to the WWTF. He also answered Board member questions about the proposed onsite discharge, whether improvements should take place before OWB resumes site operations, and enforcement options to deal with any future noncompliance events. Further, he answered questions about site-specific hydrological conditions.

Mr. Angel then discussed the Earthjustice comment letter. Mr. Angel indicated that Earthjustice raised four contentions in support of its objection to adoption of the WDRs. Mr. Angel introduced into the record and provided copies to the Board members during the meeting his written responses to each of the contentions raised by Earthjustice. He also addressed each of the contentions as part of his staff report. The Board did not have any questions about the comments and Mr. Angel's responses.

Mr. Eric Brandt, OWB, addressed the Board and thanked the Board and its staff for working diligently and professionally in drafting the proposed orders before the Board. He also expressed his commitment to resume operations in a manner that complies with the Board orders and is respectful of the community and environment. He also shared his perspective why the facility should resume operations.

Mr. Luis Olmedo from Comité Civico del Valle spoke. He stated that he objected to the adoption of the WDRs and asked the Board to delay adoption of the WDRs until OWB made all improvements necessary to comply with all environmental laws and regulations. He alleged that the Board has done nothing about previous violations from Brawley Beef and National Beef California. He complained that the citizens of Brawley were suffering due to the fine the Board levied against the City of Brawley and because of other pro-polluter policies. He also objected to the Board's granting OWB a time line for improvements.

Board Member Ms. Garcia asked about previous fines levied against National Beef and the City of Brawley. Mr. Angel explained that the only fine levied was \$1,000,000 against the City. He added that there is a pending case against National Beef.

Mr. Humberto Lugo, Comité Civico del Valle, also spoke. He echoed the concerns raised by Mr. Olmedo. He also stated that the facility emits air pollutants. He was concerned that only the residents were paying for the fines and environmental impacts. He also asked the Board not to adopt the permit until the facility has first completed all the improvements to comply with environmental laws.

Ms. Rosanna Bayon Moore, City Manager, City of Brawley, spoke on behalf of the City. She stated that the City is open for business, but wants to have a healthy business climate and to provide good public services. The City is currently reviewing an application from OWB to discharge into the City's wastewater treatment plant. She explained that previous City non-compliance problems were historic, dating back to before 2012.

Ms. Mark Hattam, counsel on behalf of National Beef California, said that he was available to answer questions regarding National Beef. The Board thanked him, but did not ask him any questions.

MOTION: Buford Crites moved to adopt the WDRs with errata; Tom Davis seconded. Roll call vote: Ayes: Ms. Wright, Ms. Way, Ms. Powell, and Messrs. Crites, Davis, and Muzik. Noes: Ms. Garcia. The motion was carried to adopt Order R7-2016-0007 with Errata.

5. R7-2016-0008 Tentative Time Schedule Order for One World Beef, LLC, Owner/Operator, Brawley Slaughterhouse, Wastewater Treatment Facility, Brawley, Imperial County
[Jose L. Ange]

Ms. Wright pointed out that the year cited in Finding 1 of the Time Schedule Order should be 2015, not 2016.

MOTION: Ed Muzik moved, Jayne Powell seconded, and the motion was carried unanimously to adopt Order R7-2016-0008 [with the noted correction for the year in Finding 1].

6. R7-2016-0009 Tentative Special Board Order Rescinding Cleanup and Abatement Order R7-2014-0033 against National Beef California, LP, Brawley Slaughterhouse Wastewater Treatment Facility, Brawley, Imperial County
[Doug Wylie]

MOTION: Buford Crites moved, Nancy Wright seconded, and the motion was carried unanimously to adopt Order R7-2016-0009.

OTHER BUSINESS

7. Election of Chair and Vice-Chair Calendar Year 2016
The Board re-elected Ellen Way and Nancy Wright as Chair and Vice-Chair, respectively.
8. Informational Update: Salton Sea Restoration Efforts
[Bruce Wilcox, Natural Resources Agency Assistant Secretary for Salton Sea]
This Item was not presented. The Board asked that this Item be rescheduled for the next available Public Informational Workshop in February.
9. Informational Update: Imperial County Local Agency Management Program (LAMP) for Septic Systems
[Lars Seifert, Imperial County]
Board staff, Ms. Mary Serra, introduced this Item and Mr. Seifert, Imperial County Environmental Health Services Manager. She stated that LAMPs are required by the State Onsite Wastewater Treatment System (OWTS) Policy. Mr. Seifert provided an overview of the key provisions in the proposed LAMP for septic systems in Imperial Valley and the timing for implementation. He stated the County intends to adopt an Ordinance to codify the LAMP, and the County will asking the Regional Water Board to approved the LAMP in May 2016. He thanked Regional Water Board staff for working with the County cooperatively in the development of the proposed LAMP. Ms. Way thanked Mr. Seifert for the presentation.

10. Informational Update: Region 7 Performance for State Fiscal Year 14-15

[Abdi Haile, Mary Serra]

This Item was not presented. The Board asked that this Item be rescheduled for the next available Public Informational Workshop.

11. Informational Update: Salt & Nutrient Management Plans (SNMPs) for Region 7

[Joan Stormo, Cathy Sanford]

Board staff, Ms. Sanford, provided the Board with an update on the status of SNMPs in the Region. She discussed why they are required and the essential elements of the SNMP. She reported that staff has received proposed SNMPs from:

- Mojave Water Agency (MWA) for the Morongo Valley;
- Twenty-nine Palms Water District for the City of Twenty-nine Palms; and
- Coachella Valley Water District et al. for the Coachella Valley.

She stated that the SNMP for Twenty-nine Palms is incomplete and that staff provided written comments in November 2015 to Twenty-nine Palms regarding the deficiencies and required revisions to the SNMP, and recommendations to the City of Twenty-nine Palms to develop and implement a centralized sewage collection and treatment system for the town.

Ms. Sanford said that the SNMP from MWA essentially applies mostly to the Basin in Region 6, but it does address some Basins in Region 7. Region 6 is the lead approval Board for this Plan. She stated that staff provided written comments to MWA in October 2015 recommending minor changes to the proposed SNMP's management zones. MWA has revised the SNMP accordingly and staff anticipates accepting the SNMP and asking MWA to submit annual updates regarding its implementation of the SNMP.

In regards to the SNMP for the Coachella Valley, she stated that Regional Water Board staff, during various stakeholders meeting, has expressed concerns about multiple deficiencies in this proposed Plan. She noted that staff has also provided the proponents of the Plan with written comments detailing the deficiencies (e.g., proper establishment of ambient water quality, assimilative capacity, anti-degradation analysis, etc.), and staff and other stakeholders raised concerns again during the Regional Water Board February 2015 Workshop about the SNMP for Coachella Valley. She added that a revised SNMP was submitted in June 2015 and subsequent meetings between Regional Water Board staff and the proponent of the SNMP have been held, but the revised SNMP still does not adequately address the concerns and noted deficiencies. Therefore, she said that staff is proposing to prepare a staff report and bring this Item before the Board in March or thereabout so the Board can provide direction for resolving the concerns and impasse. She added that the staff report will discuss the outstanding issues, range of alternatives available to the Board, and staff's recommended course of action. Mr. Angel elaborated on the reasons for bringing this Item for Board direction, stating that he believes there are legitimate disagreements that need to be brought to the Board's attention. He also answered questions from the Board members regarding the approval process for SNMPs. Ms. Way asked that the Item be handled at a Board Workshop.

12. Informational Update: New River Pollution from Mexico

[Jose L. Angel]

This Item was not presented. The Board asked that this Item be rescheduled for the next available Public Informational Workshop.

13. Informational Update: State Water Resources Control Board Activities

[Ms. Frances Spivy-Weber]

Ms. Spivy-Weber reported that the proposed State Budget for SFY 16-17 is out:

- The proposed budget includes a number of new positions for the State Water Board for its financial assistance program and for its Marijuana regulatory program.
- She reported that Budget includes money for the Salton Sea, and there is cautious optimism for addressing core Salton Sea needs.
- She also said that the State Water Board will be working with the Regional Water Boards on the Water Boards' internal budget process (e.g., how to allocate resources and deploy resources for priority work).

She reported on the January 5th State Water Board Salton Sea Workshop. Mr. Angel represented the Regional Water Board at the Workshop. She also stated that the State Water Board is adopting new emergency regulations for water conservation. Proposed new regulations will have more flexibility in the required conservation targets for areas like desert areas.

14. Colorado River Basin Water Board Interim Executive Officer's Report

[Jose L. Angel]

In the interest of time, Mr. Angel stated that his report was submitted to the Board in writing, but that he was available to answer any questions about it. The Board did not ask him any questions.

15. Colorado River Basin Water Board Member Comments

Mr. Muzik reported that the State Water Board sent the final signed \$145M loan package for the Hi-Desert Water District's proposed centralized sewer system for Yucca Valley. He added that last week the District picked his design team for the progressive design-build of the Wastewater Treatment Plant. He also noted that the District also applied for another \$2.7M from Round 3 of Prop 84 for the wastewater project. He anticipates the District will start construction of the collection system in June 2016.

Ms. Wright stated that there will be a water conference sponsored by the Urban Water Institute in Palm Springs, February 10-12. Mr. Muzik added that next week the California Association of Sanitation Agencies will be having its meeting in Palm Springs also.

16. Colorado River Basin Water Board Chair's Report

[Ellen Way]

Ms. Way reported that moving forward the Board will be having more Workshops in between regular Board meetings to hear specific Informational items/issues. She congratulated the Hi-Desert Water District for its progress with the proposed centralized sewer system for Yucca Valley.

CLOSED SESSION

17. At any time during the regular session, the Board may adjourn to meet in closed session to consider the appointment, employment, evaluation of performance, or dismissal of a public employee [Authority: Government Code Section 11126(a)]; to consider evidence received in an adjudicatory hearing and deliberate on a decision to be reached based on that evidence [Authority: Government Code Section 11126(c)(3)]; to discuss significant exposure to litigation [Authority: Government Code Section 11126(e)(2)(B)(i)]; to discuss whether to initiate litigation [Authority: Government Code Section 11126(e)(2)(C)(i)]; or to discuss initiated litigation [Authority: Government Code Section 11126(e)]. Discussion of litigation is within the attorney-client privilege and may be held in closed session [Authority: Government Code Section 11126(e)(2)].

The Board adjourned to closed session to discuss the noticed personnel matter. The Board then reconvened to open session and adjourned.

ADJOURNMENT OF BOARD MEETING

Meeting adjourned at 1:28 pm.

NEXT BOARD MEETING: 10:00 AM, THURSDAY, MARCH 10, 2016, YUCCA VALLEY, CA